

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 17474US02)

In the Application of:

YAMANAKA, AKIRA et al.

Serial No.: 10/773,804

Filed: February 6, 2004

For: METHOD AND SYSTEM FOR
MEASURING IQ PATH MISMATCH

Examiner: Emmanuel Bayard

Group Art Unit: 2611

Confirmation No.: 8463

Transmitted via the Office electronic filing
system **August 9, 2011.**

**APPLICATION FOR RECONSIDERATION OF THE
DETERMINATION OF PATENT TERM ADJUSTMENT
UNDER 35 U.S.C. 154(b)
ACCOMPANYING THE NOTICE OF ALLOWANCE
(37 CFR § 1.705)**

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

The Applicants respectfully request reconsideration of the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) (PTOL-85) accompanying the Notice of Allowance mailed May 13, 2011 ("the Decision"), to the extent indicated in the following discussion and the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR. This application for reconsideration of the Decision is being filed after the date of mailing of the Notice of Allowance and no later than the payment of the issue fee.

This application for reconsideration of the Decision is accompanied by the fee set forth in § 1.18(e) (\$200).

This application for reconsideration of the Decision includes below a statement of the facts involved in sufficient detail to allow the United States

Patent and Trademark Office (USPTO) to reach the correct patent term adjustment respecting the disputed items.

The Applicants' calculation shows that the correct patent term adjustment should be 1734 days.

The basis under § 1.702 for the adjustment is as follows.

Positive Patent Term Adjustment

Fourteen Month Guarantee (35 USC § 154(b)(1)(A)(i))

The USPTO calculation of the patent term adjustment under the 14-month deadline for mailing the first Office action on the merits, a Restriction Requirement, or a Notice of Allowance was 490 days. The Applicants disagree with this determination because the patent term adjustment under the 14-month deadline should be 699 days, from April 6, 2005, to March 6, 2007.

Specifically, the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR shows that:

- the application was filed under 35 USC 111(a) on February 6, 2004,
- the fourteen-month deadline was April 6, 2005,
- the first one of a first Office action on the merits, a Restriction Requirement, or a Notice of Allowance was mailed on March 6, 2007, and
- the date stated in the last point was 699 days after the fourteen-month deadline, which should be the patent term adjustment under this ground.

Net Patent Term Adjustment

The changes requested by the Applicants to the USPTO patent term adjustment determination in the Decision are as follows:

Positive Patent Term Adjustment

- **Fourteen Month Guarantee**
(35 USC § 154(b)(1)(A)(i))

| | Patent Term Adjustment (days) |
|------------------------------|--|
| USPTO Calculation | 490 |
| Applicant Calculation | 699 |

Conclusion

The Applicants request modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the patent term adjustment proposed by the Applicants is thus 1734 days.

Please charge any fees or credit any overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Date: August 9, 2011

By: /Ognyan I. Beremski/
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Reg. No. 51,458
Attorney for Applicants

McANDREWS, HELD & MALLOY, LTD.
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Chicago, Illinois 60661
Telephone: (312) 775-8000

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| 10/773,804 | METHOD AND SYSTEM FOR MEASURING IQ PATH MISMATCH | 05-13-2011::17:19:11 |
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/773,804

| | | | |
|------------------------|------------|--|------|
| Filing or 371(c) Date: | 02-06-2004 | Overlapping Days Between {A and B} or {A and C}: | 0 |
| Issue Date of Patent: | - | Non-Overlapping USPTO Delays: | 1525 |
| A Delays: | 490 | PTO Manual Adjustments: | 0 |
| B Delays: | 0 | Applicant Delays: | 0 |
| C Delays: | 1035 | Total PTA Adjustments: | 1525 |

Patent Term Adjustment History Explanation Of Calculations

| Number | Date | Contents Description | PTO (Days) | APPL (Days) | Start |
|--------|------------|---|------------|-------------|-------|
| 69 | 05-13-2011 | Mail Notice of Allowance | | | 0 |
| 68 | 05-10-2011 | Office Action Review | | | 0 |
| 67 | 05-10-2011 | Office Action Review | | | 0 |
| 66 | 05-10-2011 | Issue Revision Completed | | | 0 |
| 65 | 05-10-2011 | Document Verification | | | 0 |
| 64 | 05-09-2011 | Notice of Allowance Data Verification Completed | | | 0 |
| 63 | 05-09-2011 | Case Docketed to Examiner in GAU | | | 0 |
| 62 | 05-06-2011 | Reasons for Allowance | | | 0 |
| 61 | 05-06-2011 | Allowability Notice | | | 0 |
| 58 | 04-01-2011 | Amendment/Argument after BPAI Decision | | | 0 |
| 57 | 02-02-2011 | Mail BPAI Decision on Appeal - Affirmed in Part | 1035 | | 37 |
| 56 | 02-01-2011 | BPAI Decision - Examiner Affirmed in Part | | | 0 |
| 55 | 03-14-2009 | Docketing Notice Mailed to Appellant | | | 0 |
| 54 | 03-14-2009 | Assignment of Appeal Number | | | 0 |
| 53 | 02-13-2009 | Appeal Awaiting BPAI Docketing | | | 0 |
| 52 | 01-28-2009 | Mail Reply Brief Noted by Examiner | | | 0 |
| 51 | 01-22-2009 | Reply Brief Noted by Examiner | | | 0 |
| 48 | 11-24-2008 | Date Forwarded to Examiner | | | 0 |

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|----|------------|---|-----|----|
| 47 | 11-10-2008 | Reply Brief Filed | | 0 |
| 46 | 10-01-2008 | Exam. Ans. Review Complete | | 0 |
| 45 | 09-17-2008 | Mail Examiner's Answer | | 0 |
| 44 | 09-15-2008 | Examiner's Answer to Appeal Brief | | 0 |
| 43 | 07-02-2008 | Appeal Brief Review Complete | | 0 |
| 42 | 07-02-2008 | Date Forwarded to Examiner | | 0 |
| 41 | 06-27-2008 | Appeal Brief Filed | | 0 |
| 40 | 05-27-2008 | Mail Appeals conf. Proceed to BPAI | | 0 |
| 39 | 05-23-2008 | Pre-Appeals Conference Decision - Proceed to BPAI | | 0 |
| 38 | 04-04-2008 | Request for Pre-Appeal Conference Filed | | 0 |
| 37 | 04-04-2008 | Notice of Appeal Filed | | 0 |
| 36 | 03-21-2008 | Mail Advisory Action (PTOL - 303) | | 0 |
| 35 | 03-17-2008 | Advisory Action (PTOL-303) | | 0 |
| 34 | 03-10-2008 | Date Forwarded to Examiner | | 0 |
| 33 | 03-07-2008 | Amendment after Final Rejection | | 0 |
| 32 | 01-07-2008 | Mail Final Rejection (PTOL - 326) | | 0 |
| 31 | 01-04-2008 | Final Rejection | | 0 |
| 29 | 11-05-2007 | Date Forwarded to Examiner | | 0 |
| 28 | 10-22-2007 | Response after Non-Final Action | | 0 |
| 27 | 08-02-2007 | Mail Non-Final Rejection | | 0 |
| 26 | 08-01-2007 | Non-Final Rejection | | 0 |
| 24 | 05-24-2007 | Date Forwarded to Examiner | | 0 |
| 23 | 05-21-2007 | Response after Non-Final Action | | 0 |
| 22 | 03-06-2007 | Mail Non-Final Rejection | 490 | 19 |
| 21 | 03-02-2007 | Non-Final Rejection | | 0 |

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| 20 | 02-27-2007 | Case Docketed to Examiner in GAU | 0 |
| 19 | 07-01-2005 | Response to Notice of Lost Image | 0 |
| 18 | 07-28-2006 | Case Docketed to Examiner in GAU | 0 |
| 17 | 07-11-2006 | Correspondence Address Change | 0 |
| 16 | 07-11-2006 | Change in Power of Attorney (May Include Associate POA) | 0 |
| 15 | 04-14-2005 | Mail Notice of lost Image document | 0 |
| 14 | 04-14-2005 | Notice of lost Image document | 0 |
| 13 | 03-01-2005 | IFW TSS Processing by Tech Center Complete | 0 |
| 12 | 03-01-2005 | Case Docketed to Examiner in GAU | 0 |
| 11 | 07-29-2004 | Application Return from OIPE | 0 |
| 10 | 07-29-2004 | Application Return TO OIPE | 0 |
| 9 | 07-29-2004 | Application Dispatched from OIPE | 0 |
| 8 | 07-29-2004 | Application Is Now Complete | 0 |
| 7 | 07-07-2004 | Additional Application Filing Fees | 0 |
| 6 | 07-07-2004 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic | 0 |
| 5 | 05-10-2004 | Notice Mailed--Application Incomplete--Filing Date Assigned | 0 |
| 4 | 03-17-2004 | Cleared by OIPE CSR | 0 |
| 3 | 03-17-2004 | CASE CLASSIFIED BY OIPE | 0 |
| 2 | 02-20-2004 | IFW Scan & PACR Auto Security Review | 0 |
| 1 | 02-06-2004 | Initial Exam Team nn | 0 |
| 0.5 | 02-06-2004 | Filing date | 0 |

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Ser. No. 10/773,804

USPTO CALCULATION

APPLICANT'S CALCULATION

| PTO Delay | Appl. Delay |
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| 11/24/2008 | Date Forwarded to Examiner | | |
| 11/10/2008 | Reply Brief Filed | | |
| 10/1/2008 | Exam. Ans. Review Complete | | |
| 9/17/2008 | Mail Examiner's Answer | | |
| 9/15/2008 | Examiner's Answer to Appeal Brief | | |
| 7/2/2008 | Appeal Brief Review Complete | | |
| 7/2/2008 | Date Forwarded to Examiner | | |
| 6/27/2008 | Appeal Brief Filed | | |
| 5/27/2008 | Mail Appeals conf. Proceed to BPAI | | |
| 5/23/2008 | Pre-Appeals Conference Decision - Proceed to BPAI | | |
| 4/4/2008 | Request for Pre-Appeal Conference Filed | | |
| 4/4/2008 | Notice of Appeal Filed | | |
| 3/21/2008 | Mail Advisory Action (PTOL - 303) | | |
| 3/17/2008 | Advisory Action (PTOL-303) | | |
| 3/10/2008 | Date Forwarded to Examiner | | |
| 3/7/2008 | Amendment after Final Rejection | | |
| 1/7/2008 | Mail Final Rejection (PTOL - 326) | | |
| 1/4/2008 | Final Rejection | | |
| 11/5/2007 | Date Forwarded to Examiner | | |

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|------------|---|-------------------------------|-----------------------------|
| 7/29/2004 | Application Dispatched from OIPE | | |
| 7/29/2004 | Application Is Now Complete | | |
| 7/7/2004 | Additional Application Filing Fees | | |
| 7/7/2004 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant | | |
| 5/10/2004 | Notice Mailed--Application Incomplete--Filing Date Assigned | | |
| 3/17/2004 | Cleared by OIPE CSR | | |
| 3/17/2004 | CASE CLASSIFIED BY OIPE | | |
| 2/20/2004 | IFW Scan & PACR Auto Security Review | | |
| 2/6/2004 | Initial Exam Team nn | | |
| 2/6/2004 | Filing date | | |
| | | PTO (Days) 1525 | APPL (Days) 0 |
| PTA | >>>>>>>>>> | 1525 Days | |
| | | USPTO CALCULATION | |

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